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SUMMARY

The American Radio Relay League, Incorporated (the League), submits its reply to certain comments filed in response to the Commission's *Notice of Inquiry* (NOI) in this proceeding. The NOI asks, in the context of reform of Commission structure and approach to issues, how the Commission might improve speed and quality of service to the public, reduce the burden of unnecessary regulation, and use its financial and staff resources more efficiently. The League timely submitted comments in this proceeding, which addressed the Commission's processes and regulatory approach to the Amateur Radio Services specifically.

In a number of countries, the role of the national amateur radio society includes virtually all administrative functions for the Amateur Service, with oversight thereof by the telecommunications regulatory authority. The League is willing and would appreciate the opportunity to discuss with the Commission in the coming months the possibilities for increased assumption by the League of certain regulatory functions, using that regulatory model. The League vehemently opposes, however, the delegation of proper Commission functions to multiple-source, unregulated entrepreneurs with no reporting requirements or significant Commission oversight, whose interest in assumption of those functions is purely pecuniary gain. The Amateur Service is not well-served thereby.

The League recognizes that the Commission is faced with significant budget restrictions and is forced to reexamine its functions at the present time. The League would welcome the opportunity to discuss with the Wireless Telecommunications Bureau Chief, and her staff, in the coming months, additional ways in which the League could assist the Commission in the administration and regulation of the Amateur Service, and provide additional volunteer services to the Commission. Principally, the League suggests that the Commission make use of the volunteer services that it has had available to it for almost fourteen years now, and improve its service to Radio Amateurs, by making use of the good work of the dedicated radio amateurs in the Amateur Auxiliary program; by resurrecting the sense of deterrence that is a cornerstone of the tradition of the Amateur Service as a model of self-regulation and self-enforcement for other services to follow; and by making use of the League's field organization in the resolution of consumer electronic RFI and EMC problems, as discussed in the League's comments previously filed.

MAR 29 1996

To: The Commission

The American Radio Relay League, Incorporated (the League), the national, not-for-profit association of amateur radio operators, by counsel and pursuant to Section 1.405 of the Commission's Rules (47 C.F.R. §1.405), hereby respectfully submits its reply to certain comments filed in response to the Commission's *Notice of Inquiry*, FCC 96-50, ____ Fed. Reg. ____, released February 14, 1996 (the NOI). The NOI asks, in the context of reform of Commission structure and approach to issues, how the Commission might improve speed and quality of service to the public, reduce the burden of unnecessary regulation, and use its financial and staff resources more efficiently. The League timely submitted comments in this proceeding, which addressed the Commission's processes and regulatory approach to the Amateur Radio Services specifically. For its reply comments, the League states as follows:

1. These reply comments address only those comments filed in this proceeding which address the Commission's regulation and administration of the Amateur Radio Service. The remainder of the

comments filed dealt with other radio services beyond the League's scope of interest and expertise.

2. As noted in the League's comments in this proceeding, the Amateur Service is a model for other services to follow in terms of self-regulation and the voluntary undertaking of traditional government functions. The League has been a significant contributor to, and was the source and principal advocate of, the two major volunteer programs in the Amateur Service: the Volunteer Examiner program, and the Volunteer Monitoring program, each authorized by statute. The League now coordinates the administration of approximately 65 percent of all examinations for amateur licenses in the United States. It developed, through its extensive volunteer field organization, the Amateur Auxiliary to what was the Commission's Field Operations Bureau, the intent of which was to develop and coordinate compliance monitoring information and convey that to the Commission; and to encourage voluntary rule compliance and self-regulation.

3. The League is by far the largest and most representative amateur radio organization in the United States, and is the only national association in the United States which represents the entire range of interests of radio amateurs licensed by the Commission. Internationally, the League's preeminence is evidenced by its service, for the entire eighty-year history of the International Amateur Radio Union, as the international secretariat of this worldwide federation. Any necessary Commission delegation of regulatory functions involving the Amateur Service should be

made to the League, a not-for-profit association with the capability and wherewithal to provide such services without the imposition of unnecessary or burdensome costs on the Amateur Radio community. Such delegation is far preferable to the delegation of Commission services or functions to one or multiple contractors, whose interests in the Amateur Service are principally or exclusively pecuniary and therefore contrary to the objectives, basis and purpose of the service.

4. Which of the remaining Commission administrative and regulatory functions, however, performed in connection with the Amateur Service, should be delegated at all? The comments of Frederick O. Maia, doing business as the W5YI Group, suggest the delegation of a number of Commission activities to commercial entities on an entrepreneurial basis. He suggests that the Volunteer Examiner Coordinators (VECs), which are currently limited by statute to recovery of expenses (up to a per-examination fee ceiling) from examination candidates, be permitted to charge additional fees for additional services. He suggests, first, that amateur license renewals and modifications could be handled by VECs, rather than by the Commission. Data entry could be done by the VECs, who would forward that information to the Commission electronically. While indeed modifications and renewals could be delegated by the Commission to the League or another entity, such would require statutory authority which does not now exist. The statutory authority of the VECs, which is contained at Section 4(f)(4) of the Communications Act of 1934, as amended, permits only

the acceptance of volunteer assistance to the Commission in the area of preparation and administration of examinations. License renewals and modifications are, by statute, the exclusive province of the Commission.

5. Maia premises his suggestion that license renewals and modifications should be delegated to the private sector on the fact that amateurs do not presently pay regulatory or application fees, being exempt from Congressionally-imposed fee schedules. Congress has, at several different times in recent years, addressed license fees in the Amateur Service. Each time, the conclusion was reached that the benefits of amateur radio to the public and the self-regulatory character of the service justify an exemption from fee schedules. Congress may at some later time revisit this issue, but thus far, there is no indication that "regulatory burden" is an apt justification for privatization of license renewals and modifications. The delegation by the Commission of the processing of license modifications and renewals to an entity that would charge a fee to perform the function is unwise, in any event.¹ To do so is to create a disincentive to renew an amateur license, and a disincentive to modify a license to, for example, report a change of address to the Commission or to notify the Commission of station

¹ Mr. Maia formerly offered the "service", for a fee, of handling the preparation for the applicant of a license renewal application. In doing so, he added absolutely no value to the transaction, and in fact added a layer of bureaucracy to the rather simple process that any licensed amateur could accomplish by itself. Maia's current proposal is for the Commission to mandate that renewal applications be processed by the amateur equivalent of the "application mills" that have burdened the commercial radio services for years.

relocation to an environmentally-sensitive area. The renewal of an amateur license is now, thanks to the Commission, a matter of routine for the active radio amateur; the Commission has created a simple, computer-generated form that makes license renewal simple for the amateur licensee and simple for the Commission to process. It is a good program that is working well, and need not be disturbed. Furthermore, privatization of amateur license renewals for a fee is a disincentive to renew an amateur license. It may be a task not undertaken by those whose family or business commitments periodically necessitate an hiatus in amateur activities, which is an inevitable factor for many people. It would not be useful to create a financial disincentive to renew an amateur license, or to create a disincentive to notify the Commission of changes in the licensee's circumstances. The processing of license renewal applications and modifications is not a significant burden on the Commission, since the license term is ten years, and because the Commission has an efficient program recently put in place, which is an appreciated service to the amateur community. In any event, the act of renewal of licenses and the requirement of filing modifications (other than license upgrades following examinations which are the role of the VECs) results in the provision of useful information to the Commission, which should be encouraged, not discouraged.² Should the Commission decide to delegate

² Similarly, the Commission has undertaken a notification program, sending renewal notices to those licensees whose licenses are about to lapse. This is a service that Mr. Maia desires to provide for a fee to the licensee. The Commission benefits from the sending of the notices, as a returned notice indicates that the

modification and renewal processing functions to the private sector, however, and should statutory authority be obtained for such, the services should be handled by a single-source provider. The sole recipient of such authority should be the League, which would be able to process renewals and modifications without turning it into a for-profit venture, and without the disincentives of Maia's plan.

6. Maia next suggests that the Amateur vanity call sign assignment system should be privatized, again to private contractors such as Maia, and again in such a way as to permit Maia to charge a fee (in addition to the regulatory fee to be charged by the Commission for the use of the callsign). What Maia refers to as "same-day service" involves a convoluted system whereby a private sector entity would be paid a fee for electronically forwarding to the Commission callsign data, and forwarding to the Mellon Bank (thereafter) the payment of the regulatory fee by the applicant. This simply adds an unnecessary third party to the administrative process. Has the Commission saved anything? Not at all. The cost of the program to the Commission should be offset completely by the regulatory fee charged. The Commission recently explored, in a notice and comment proceeding conducted by the Private Radio Bureau entitled "PRB-3" the concept of a privatized call sign assignment system. The conclusion in that proceeding was that a privatized

licensee has failed to keep the Commission apprised of his or her current mailing address. The League suggests that this function is useful both to the Commission and to the licensees, and if it can be continued by the Commission, it should be.

system was not the best method of proceeding; rather, the Commission-administered Vanity Call Sign program was established instead. See, the *Memorandum Opinion and Order*, 9 FCC Rcd. 103 (1993).

7. The Commission has not yet commenced its Vanity Call Sign program, long eagerly awaited by many radio amateurs. It has been stalled for many months by a second series of reconsideration petitions of no real merit. The concept was to permit the Commission, by establishment of a realistic fee charged those who choose to participate in the program, to offset the regulatory cost of the program, and to make it self-sustaining. It is a program that need not and should not constitute a regulatory burden on the Commission, but rather one that pays its own way. There is no need to create a secondary market for commercial call sign application mills, as the Commission has already established the procedure and the form therefor. It need only be implemented as per the two Commission orders on the subject. If it requires privatization at a later date, after experience is gained with the program, the matter should be revisited at that time. The Commission's proposal to itself administer a Vanity Call Sign program met with wide approval and acceptance in the Amateur community. It would be premature to reform the program before it is even implemented.

8. Finally, Maia proposes that no paper licenses be issued by the Commission in the Amateur Service. He suggests that license data be posted on the Internet, and that anyone who desires a paper license may obtain one from a VEC (for yet another fee). Maia's

suggestion fails to recognize the need for Commission-issued licenses evidencing Federal licensing. Not only is this often indispensable when a United States licensee is travelling internationally (not only for international licensing purposes, but also for customs purposes when bringing equipment with them), it is often necessary as an evidentiary matter in zoning and other proceedings, and in dealing with civil defense and local law enforcement officers for a variety of reasons. A license document issued by a VEC is meaningless for practical applications. A tangible license issued by the Commission is a necessity.

9. The Commission has recently delegated to the VECs, with electronic filing of applications, the duty to input all licensee data prior to sending it electronically to the Commission. This has worked out extremely well and is most popular with the amateur radio community, due to the short time that new licensees can participate in amateur communications with an assigned call sign. The program is working better than expected, and the Commission is to be congratulated for its success in bringing it about rapidly and efficiently. Electronic filing of applications reduces the Commission's licensing burden to mere printing and mailing of licenses. Should the Commission decide, however, that it cannot sustain the burden even of automatic printing and mailing of licenses (after scrutiny of the electronic data for compliance purposes), the only proper delegatee of the task is the League, and the League alone. Multiple sources of printed licenses are not in the best interest of the integrity of the Amateur Service for

obvious reasons. The League is, by international Convention, (See, the *Inter-American Convention on an International Amateur Radio Permit*, AG/doc.3216/95) the sole private sector authority for the issuance of International Amateur Radio Permits (should the United States choose to delegate that function at all)³, and, as the entity which coordinates and administers the significant majority of all amateur radio examinations, the League is the appropriate single-source entity to fulfill the function of printing and mailing Commission license documents, should the Commission find delegation of this function a necessity⁴. As all of the data entry is already performed in the private sector, however, issuance of the license document does not appear to be a significant regulatory burden on the Commission, and the function is properly left status quo.

10. In a number of countries, the role of the national amateur radio society includes virtually all administrative functions for the Amateur Service, with oversight thereof by the telecommunications regulatory authority. The League is willing and

³ The League discussed the desirability of early implementation of the *Inter-American Convention on an International Amateur Radio Permit* (IARP), to which the United States is signatory, in its comments in this proceeding. Implementation of the program was proposed by the League in RM-8677, which is now pending at the Commission. Under the terms of the Convention, administrations may issue IARPs to their own licensees for use outside the territories of the issuing administration, or it may delegate that function to the national IARU society in that country. In the United States, the national IARU society is the League.

⁴ In a number of countries, the role of the national amateur radio society includes all regulatory and administrative functions. The League is willing to discuss with the Commission in the coming months the possibilities for

would appreciate the opportunity to discuss with the Commission in the coming months the possibilities for increased assumption by the League of certain regulatory functions, using that regulatory model. The League vehemently opposes, however, the delegation of proper Commission functions to multiple-source, unregulated entrepreneurs with no reporting requirements or significant Commission oversight, whose interest in assumption of those functions is purely pecuniary gain. The Amateur Service is not well-served thereby. The Commission's less-than-satisfactory experiences with commercial land mobile frequency coordinators (in terms of excessive fees, errors in coordination, and significant delays, which to date has not significantly improved) is a good example of what to avoid in the privatization process. If increased privatization is to occur in the Amateur Service, the Commission should look to the successful models of the relationships in other countries between the telecommunications authorities and the national amateur radio society in those countries.

11. The comments of Mr. Jim Wills, N5HCT, make several disparate points. His first, that all amateur and commercial testing responsibility should be delegated to a particular corporate entity that is composed of several of the smaller VECs, is difficult to fathom. All amateur testing is, in fact, presently delegated to the VECs. Wills suggests that licensing should remain with the Commission, however. That is exactly the situation at the present time. If his point is that all commercial operator testing should be performed by the VECs, the League disagrees. The

expertise and experience of the VECs, and a significant workload, already is tasked to the VECs with respect to amateur testing. The commercial examiners (COLE Managers, using the Commission's term) presumably have their own expertise in commercial operator licensing. There is no benefit whatsoever in combining the two private sector programs, nor to disrupt a program that is working.

12. Wills suggests that the Commission significantly modify the amateur radio examination structure and license classes with respect to the Morse code requirements. Changes in the present examination and license structure in the Amateur Service is a completely separate matter from the issues inherent of improving Commission functions. If there exists a need to further simplify Commission regulations governing Amateur Radio, it should be done in a separate proceeding. Specifically with respect to Morse code examination requirements, that is a subject influenced by the ITU Radio Regulations, and not merely by domestic communications policy. The issue of Morse Code requirements in the Amateur Service is likely to be considered at WRC-99, and the appropriate time to consider addressing the matter domestically, would be following that conference.

13. There are no other comments submitted in this proceeding dealing with the Amateur Service that necessitate a reply. The League recognizes that the Commission is faced with significant budget restrictions and is forced to reexamine its functions at the present time. The League would welcome the opportunity to discuss with the Wireless Telecommunications Bureau Chief, and her staff,

in the coming months, additional ways in which the League could assist the Commission in the administration and regulation of the Amateur Service, and provide additional volunteer services to the Commission. Principally, the League suggests that the Commission make use of the volunteer services that it has had available to it for almost fourteen years now, and improve its service to Radio Amateurs, by making use of the good work of the dedicated radio amateurs in the Amateur Auxiliary program; by resurrecting the sense of deterrence that is a cornerstone of the tradition of the Amateur Service as a model of self-regulation and self-enforcement for other services to follow; and by making use of the League's field organization in the resolution of consumer electronic RFI and EMC problems, as discussed in the League's comments previously filed.

Therefore, the American Radio Relay League, Incorporated again respectfully requests that the Commission proceed with the steps outlined in its comments in this proceeding, which will improve the Commissions' responsiveness to the Amateur Radio Services, and

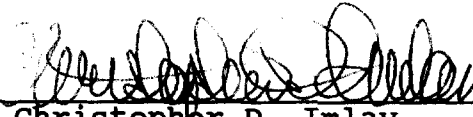
which will provide some needed reforms for the direct benefit of the Amateur Services at the same time.

Respectfully submitted,

**THE AMERICAN RADIO RELAY
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March 29, 1996

CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager in the law firm of Booth, Freret & Imlay, P.C. do certify that copies of the foregoing REPLY COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED were mailed first class, postage prepaid, this 29th day of March, 1996, to the following:

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